

SUPPORT FOR THE AMENDMENT

Support for the amendment to claim 1 is found in claims 3, 4 and 17 as previously presented. Support for the amendment to claim 12 is found in claim 17 as previously presented. Support for claim 22 is found in claims 1 and 11 as currently presented and on page 4, lines 20-21 of the specification. Support for claims 23-27 is found in claims 7-11 as originally presented. No new matter would be added to this application by entry of this amendment.

Upon entry of this amendment, claims 1, 5, 13-16 and 20-27 will now be active in this application.

REQUEST FOR RECONSIDERATION

The claimed invention is directed to a **steam-generating** warming article.

Muscular pain is typically experienced by the older segment of our population. While heat therapy in the form of disposable heat packs is known, it does not provide entirely effective therapy. Accordingly devices for treating muscle pain is sought.

The claimed invention addresses this problem by providing a **steam-generating** warming article comprising a steam generating warming sheet which comprises a heat generating sheet which has a large number of holes or cuts therein and a holder for said heat generating sheet, wherein the heat generating sheet comprises an oxidizable metal, a reaction accelerator and a fibrous material having incorporated therein an aqueous electrolyte.

Applicants have discovered that such a steam-generating warming article in which the heat generating sheet has a large number of holes or cuts and is held in a holder having a specified air permeability and water vapor transmission rate allows for effective delivery of steam to a body surface in need thereof for a long duration of a desired temperature. Applicants have also discovered that steam provides for an enhanced physiological effect, relative to application of dry heat. Such a steam-generating warming article comprising a large number of holes or cuts therein and holder, is nowhere disclosed or suggested in the cited art of record.

The rejection of claims 1-21 under 35 U.S.C. §103(a) over Matsui et al. U.S. 2005/0000827 is respectfully traversed.

Matsui et al. fail to disclose or suggest a steam-generating warming article provided with a large number of holes or cuts therein being held in a holder having a specific water vapor transmission rate.

The official action identifies Matsui et al. as failing to disclose the claim element of steam generation.

“Matsui et al. does not disclose steam.” (page 2 of official action)

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 180 USPQ 580 (CCPA 1974))

The official action attempt to cure this defect by merely asserting that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included generating steam as an alternative form of heat release.” However, there is no evidence of the desirability of applying steam heat in the cited art such that providing cuts or holes as well as a holder having water vapor transmissivity can not be obvious. There is no **evidence** in the cited art of record to support any conclusion that including generating steam to have been an obvious alternative form of heat release.

Moreover, the claimed invention is not merely the combination of old elements to yield predictable results, as there is no disclosure of the claim element of steam generation being held in a holder having a specified air permeability and water vapor transmission rate. The claimed combination can not be concluded to be obvious as there is no disclosure of the claim element of a holder having air permeability and water vapor transmission rate.

Further more, there would have been no motivation to include in the heat generating sheet a large number of holes or cuts.

Matsui et al. merely describes a heat-generating product which generates heat as a result of an oxidation reaction. The heat generated by such a reaction would be transmitted via **conduction** to a surface which is in contact with the heat generating product. However, since heat transfer is via conduction, there would be no motivation to include in such an article, a large number of holes or cuts, which could allow passage of steam there through.

In contrast, the claimed invention is directed to a steam-generating warming article in which the heat generating sheet has a large number of holes or cuts provided in a holder having air permeability and a water vapor transmission rate. By providing a large number of

holes or cuts in the heat generating sheet, steam created within the heat generating sheet is allowed to escape and pass through the holder having a specified water vapor transmission rate, and thereby provide steam to a contacting surface for a long duration at a desired temperature. As Matsui et al. fail to disclose the desirability of delivery of steam from within the heat generating sheet, it would not have been obvious to provide a large number of holes or cuts, therein and a holder, which would allow for the passage of steam from the device.

Even further, there would have been no motivation to include a holder having the specifically claimed air permeability and water vapor transmission rate. As noted above, the reference disclosure would be configured to transmit heat via conduction and would not have suggested a holder having air permeability and a water vapor transmission rate. Furthermore, there is no disclosure of the desirability of delivery of steam heat such that there would be no motivation to include cut and hole or to provide a holder having a water vapor transmission rate as claimed. Where is the motivation to provide a holder with a water vapor transmission rate, when the reference does not describe the desirability of application of steam heat?

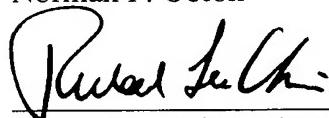
The claimed invention would not have been obvious and accordingly, withdrawal of the rejection under 35 U.S.C. §103(a) is respectfully requested.

Applicants submit that this application is now in condition for allowance and early notification of such action is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Norman F. Oblon



Richard L. Chinn, Ph.D.
Registration No. 34,305

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 03/06)

NFO:\dt